B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Michael Gus McGee	**DEFENDANTS** See Attached two pages
ATTORNEYS (Firm Name, Address, and Telephone No.) Pro Se	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☒ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☒ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

Plaintiff unable to pay therefore requests discharge to Cause of 1 student loans pursuant to 11 U.S.C. 523(a)(8). Specifically, that each of the student loans imposes undue hardship to the debtor.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☒ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $
Other Relief Sought	

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Michael Gus McGee	BANKRUPTCY CASE NO. 16-31066-hcm	
DISTRICT IN WHICH CASE IS PENDING Western District of Texas	DIVISION OFFICE El Paso	NAME OF JUDGE H. Christopher Mott
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING Western District of Texas	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) Michael G McGee		
DATE August 29, 2016	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Michael Gus McGee, Pro Se Plaintiff	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

Adversary Proceeding Cover Sheet
Attachment Page

Defendants:

Mr. Raymond J. Quinlan, Chief Executive Officer
Sallie Mae
300 Continent Drive
Newark, DE 19713

Mr. Thomas P. Skelly, Chief Financial Officer
U.S. Department of Education
P.O. Box 105028
Atlanta, GA 30348-5028

Arne Duncan, Secretary
U.S. Department of Education
400 Maryland. Avenue, S. W.
Washington, DC 2020

Mr. Thomas P. Skelly, Chief Financial Officer
U.S. Department of Education
P.O. Box 740283
Atlanta, GA 30374-0283

Mr. Jack Remondi, President and Chief Executive Officer
Navient
P.O. Box 9655
Wilkes Barre, PA 18773-9655

Mr. James Dimon, President and Chief Executive Officer
JP Morgan Chase Bank, NA
100 East Broad Street
Columbus, OH 43125

Mr. Jeffrey R. Noordhoek, Chief Executive Officer
NelNet
P.O. Box 82561
Lincoln, NE 68501-2561

Mr. Jeffrey R. Noordhoek, Chief Executive Officer
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Wells Fargo Education Financial Services
P.O. Box 5185
Sioux Falls, SD 57117-5185

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National Collegiate Trust
1200 N. 7th Street
St. Harrisburg, PA 17102-1419

Mr. Willis Hulings, President
The Education Resources Institute (TERI)
31 St. James Avenue, 4th Floor
Boston, MA 02116

Mr. James L. Preston, President and Chief Executive Officer
National Collegiate Trust
The Prudential Tower
800 Boylston Street, 34th Floor
Boston, MA 02199

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In Re: Michael Gus McGee	§	Case No. 16-31066-hcm
Debtor.	§	Chapter 7
Michael Gus McGee	§	
Plaintiff,	§	
v.	§	
	§	
Sallie Mae	§	Last SSN: 5290
	§	
U.S. Department of Education	§	Adversary Proc. No.
	§	
Navient	§	
	§	
Wells Fargo Education Financial Services	§	
	§	
The Education Resources Institute	§	
	§	
JP Morgan Chase Bank, N.A.	§	
	§	
NelNet	§	
	§	
Charter One Bank, N.A.	§	
	§	
Citizens Bank	§	
	§	
National Collegiate Trust,	§	
Defendants	§	

COMPLAINT TO DETERMINE DISCHARGEABILITY OF STUDENT LOANS

MICHAEL GUS McGEE, Debtor and Plaintiff in this action, hereby moves this Court for discharge the Student Loans Debt pursuant to 11 USC 523(a)(8) by submitting the following facts and circumstances:

PRELIMINARY STATEMENT

1. This is an adversary proceeding brought under the Bankruptcy Code, 11 U.S.C. § 523(a)(8) to determine the dischargeability of educational loans made and issued by financial institutions or private corporations, and/or insured or guaranteed by a governmental agency.

JURISDICTION AND VENUE

2. Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code on July 13, 2016, Case No. 16-31066, in the El Paso Division of the United States Bankruptcy Court for the Western District of Texas. This Court has subject matter jurisdiction over the instant proceeding and this action pursuant to Federal Rule of Bankruptcy Procedure 7004(f) and 28 U.S.C. § 1334(b). Venue is proper in this court pursuant to 28 U.S.C. § 1409(a).

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). Debtor initiates this proceeding under 28 U.S.C. § 157(b)(2)(I) to determine if his student loans are dischargeable because they cause him to suffer an undue hardship.

PARTIES

4. Plaintiff is an adult individual who resides at 1108 Hunter Drive at El Paso, Texas 79915 and in the County of El Paso, State of Texas. He is the Debtor in the above-captioned bankruptcy case.

5. There are nine unsecured debts owing by the Debtor and listed in Schedule E/F. The nine debts are unsecured student loans owing to the following Defendants that include: Sallie Mae; Navient; U.S. Department of Education; Wells Fargo Education Financial Services; The Education Resources Institute (TERI); JP Morgan Chase Bank, N.A.; NelNet; National Collegiate Trust; and, Citizens Bank which is formerly Charter One Bank, N.A.

6. Defendants are private corporations, financial institutions, or governmental agencies responsible for the overall operation of the guaranteed student loan program. Each of the Defendants shall each be served with this complaint and adversary proceeding summons pertaining to this motion by certified mail through the U.S. Postal Service by the Plaintiff addressed to the identified officers of said institutions through an adult that is not a party in the case. Plaintiff shall serve the same summons and complaint to the United States Trustee - EP 12 and the Trustee, Ronald E. Ingalls, assigned to this case by first-class mail through the U.S. Postal Service. Plaintiff shall then file a Certificate of Service that will subsequently be signed by the adult that is not a party in this case with the bankruptcy court clerk verifying the proof of service of the summons and complaint were timely served upon each of the defendants, trustee, and U.S. trustee.

STUDENT LOANS INFORMATION

7. The following student loans information are approximations and is recalled and submitted to the best of the Debtor's memory. Debtor is uncertain of the amounts owed, as well as who owns or is in physical possession of the promissory notes evidencing the student loans debt.

8. The student loans by Sallie Mae of about $180,000 is a Delaware for profit corporation that paid the educational expenses of the Debtor at University of Texas at El Paso. Navient is believed to be the guarantor and currently services the student loan by Sallie Mae.

9. The student loans by National Collegiate Trust of about $90,000 is a Pennsylvania and Massachusetts for profit corporation that paid the educational expenses of the Debtor at University of Texas at El Paso. The Education Resources Institute (TERI) is believed to be the guarantor and currently services the student loan owned by National Collegiate Trust.

10. The student loans by JP Morgan Chase Bank, N.A. of about $60,000 is a Ohio for profit financial institution that paid the educational expenses of the Debtor at the University of Phoenix. JP Morgan Chase Bank, N.A. is believed to be the guarantor and currently services its own student loan and also reported a Cancellation of Debt to the Internal Revenue Service, adding that sum as taxable income to the Plaintiff's 2013 income tax return.

11. The student loans by Wells Fargo Education Financial Services of about $35,000 is a South Dakota for profit financial institution that paid the educational expenses of the Debtor at the University of Phoenix. Wells Fargo Education Financial Services is believed to be the guarantor and servicer of its own student loan.

12. The student loans by Charter One Bank, N.A. of about $30,000 is an Ohio for profit financial institution that was renamed Citizens Bank and remains a Ohio for profit financial institution that paid the educational expenses of the Debtor at the University of Phoenix. Citizens Bank is believed to be the guarantor and servicer of its own student loan.

13. The student loans by NelNet is a Nebraska and Georgia for profit financial institution that paid the educational expenses of the Debtor at the University of Texas at El Paso of about $60,000 and more recently to Grand Canyon University of about $40,000. NelNet currently owns and servicer of its own student loan.

14. The student loan by the U.S. Department of Education is a consolidated loan that paid about $210,000 of outstanding student debt from various student loan entities on or about May 2016. The loan paid off the educational expenses from various financial institutions to include Bank of America, American Education Services, and NelNet, as well as private corporations to include American Collegiate Trust which paid for student loans sought to attend and complete University of Texas at El Paso and University of Phoenix. The same consolidation paid to attend

the Concord Law School program at Kaplan University but Plaintiff did not complete that program because Debtor learned the law program was not ABA accredited. The student loans that were paid through consolidation are not named as defendants because it is believed there is no present balance with those loan services agencies or financial institutions. The U.S. Department of Education is an executive agency of the government of the United States of America. NelNet also currently services the student loan consolidation that is owned and insured by the U.S. Department of Education.

15. Excepting the student loans from discharge would impose an undue hardship on the Debtor. Thus, the Defendants are sued by the Plaintiff to discharge the student loan debts pursuant to 11 U.S.C. § 523(a)(8). Accordingly, Section 523(a)(8) of the Bankruptcy Code, as revised in 2005, states:

> unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for--(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or (ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or (B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual.

16. The Court has the authority to grant relief by ordering the discharge of the Debtor's student loans as demonstrated in previous court rulings and pertinent case law. One such ruling is Mabry v. US Department of Education (2008). Please see Mabry, 398 B.R. 339 [240 Ed. Law Rep. 255] (Bkrtcy. E.D. Mo. 2008), which is substantially similar to the present case. In that

case, the bankruptcy court discharged the student loan debt, because the debtor was homeless, penniless, and unemployed. In this present case, the Debtor is homeless, penniless, and unemployed. Plaintiff believes he is entitled to the relief of discharging the student loans debt as the Mabry court found and ruled in that case.

FACTS OF FINANCIAL ABILITY AND SITUATION

17. Plaintiff has a desire to repay all or some portion of his educational loan debt; however, due to the Plaintiff's circumstances and situation render him unable to repay his educational debt including accrued interest, now or for many years.

18. Debtor submits the following information, background, and evidence that supports the debtor's request for discharge of the student loans debt:

a. Debtor is currently totally indigent. The sole income of the Debtor is food stamps of $194. He is not able to pay anything towards the student loans debt. Plaintiff received educational funds to attend college and were for educational benefit and were or are qualified educational loans, therefore each of the defendants fall under the provisions of 28 U.S.C. § 523(a)(8). The student loans serviced by JP Morgan Chase with a debt of over $60,000 was already written off as uncollectable, which then created an IRS Tax Debt for the 2013 tax year. The Cancellation of Debt by JP Morgan Chase, N.A., a student loan service provider, imposed an IRS Tax Debt, as indicated on the Debtor's Schedule E/F;

b. Debtor's financial condition has persisted for a time and will continue to persist. If required to repay the student loan debt, which is in excess of $300,000, it will require the standard of living to REMAIN and PERSIST under a minimum level. Debtor's circumstances condition shall remain for a considerable and probably a permanent amount of time. Debtor was gainfully employed as a licensed professional counselor until July 26, 2013. He was making over $100,000 per year and was paying his bills, supporting his daughter, and making payments towards his son's child support arrears. Debtor was making a good faith effort in paying his student loans by making payments to the student loans, until he was unable to repay to any of the student loans as a result of the below indicated circumstances. Debtor then consolidated the student loan debt on May 26, 2015 through the U.S. Department of Education. NelNet is the loan servicing provider of the consolidation loan, but the Debtor's situation renders him unable to pay towards the student loans or consolidation loan once it will be due December 29, 2017. NelNet, the student loan servicer, will undoubtedly submit a Cancellation of Debt after December 2017 to the Internal Revenue Service as a result of the Debtor's inability to pay;

c. Debtor's legal and criminal history severely impairs the debtor's ability to secure any meaningful employment. Debtor will not be able to secure a position as a licensed professional counselor due to the serious nature of the criminal charge that will permanently remain in his criminal record and is accessible to licensing and state agencies. In September 2013, the Debtor was charged, and in July 31, 2014, the Debtor entered a guilty plea to Sexual Assault of a Child. The case was placed under deferred disposition under 4 R.R. 712. The July 31, 2014 "Order of Deferred Adjudication" was signed by the El Paso County, Texas, 171st Judicial District Court on August 6, 2014 (see Exhibit A);

d. Debtor's legal situation and condition will continue until July 31, 2024. The complaining witness in the sexual assault and her mother have signed affidavits that they fabricated the charge against the Debtor, Michael Gus McGee; the mother of the complaining witness was paid by the mother of the Debtor's daughter, Rosa Isela Coleman. The affidavits dated September 26, 2013 of the complaining witness (see Exhibit B) and February 25, 2015 of the mother to the complaining witness (see Exhibit C) indicate that the mother of the complaining witness was paid $7,200 by Rosa Isela Coleman to fabricate the criminal charges, and the daughter was coerced to complain that she was sexually assaulted by the mother, that they lied to the police about the crime, that the mother of the victim broke into the home of the Debtor to steal personal belongings to use in fabricating evidence against Michael Gus McGee, and to otherwise steal from the Debtor. Furthermore, the perpetrator of the burglary was Susana McCann, by admission, who stole various belongings, work forms, property and money, as well as many papers that included promissory notes of many lenders and academic work. The reason for the daughter's mother wanting to fabricate criminal charges against Michael Gus McGee was due to him obtaining custody of their daughter when the daughter was four years old, who was then 16 years old; and,

e. The career of the Debtor cannot be corrected due to this criminal conviction. It will always remain on the Debtor's occupational and professional license, criminal arrest record, and criminal history. As such, the Debtor is unemployable, and even if able to be employed, the Debtor argues he will be unable to earn a sufficient living to repay the large sum of student loan debts while attempting to maintain a minimum standard of living and having to pay overdue arrears of over $24,000 owed in his son's self-case (re: Eribez v. McGee, D376077) and arrears of over $15,000 owed in his daughter's county aid case (re: County of San Diego v. McGee, D442944) that originate from the County of San Diego, Family Support Division, Superior Court of California.

19. Debtor has remained unemployed since July 27, 2013 as a result of the indicated circumstances and identified events. Debtor's sole source of income has been the younger brother or aunt paying various basic living expenses, legal costs, and punitive fees on the Debtor's behalf. Debtor is currently court ordered to receive $100 per month from the mother of

his daughter for arrears through the Family Support Division in the County of San Diego, Superior Court of California, as evidenced by the Minutes and Order in Case D442944 filed May 28, 2015 (see Exhibit D). That mother's payments towards arrears have been inconsistent and have averaged about $94 per month when she actually pays through wage garnishments by the County of San Diego, Department of Child Support Services when she works. Debtor is also court ordered in a separate to return the $100 per month for the child support arrears he owes in his son's case, as evidenced by the Minutes and Order filed January 11, 2016 (see Exhibit E).

20. Debtor has no anticipated monies, available income, or resources with which to pay the aforementioned loans and any payments on the identified students loans could be made only at great hardship to the Debtor. Debtor receives public assistance of $194 per month in the form of food stamps. As such, the Debtor's income is below the national poverty level as established by the U.S. Department of Labor. The assistance by Debtor's aunt or brother and the food stamps barely suffices for the necessities of life and they are on borrowed time to not be able to continue financially supporting the Debtor's basic living expenses.

RELIEF REQUESTED

WHEREFORE, the Plaintiff prays that this Court to adjudge and decree in favor to:

a. discharge all or designated portions of the described student loan debt in the Plaintiff's related bankruptcy case that has been or was incurred from the named Defendants pursuant to 11 U.S.C. § 523(a)(8)(B);

b. issue an order forbidding the holders of such loans to attempt to collect any amounts determined to be non-dischargeable otherwise than by sending regular monthly statements that contain no threats or other action for nonpayment;

c. enjoin the holders or services from attempting to enforce any judgment otherwise than in accordance with the order prayed for herein;

d. enjoin the holders or servicers from disclosing the Plaintiff's physical address to any person, public or private agency, organization or entity of any type or to any sources of public record, information, or database accessible directly or indirectly without obtaining leave to do so from the Court; and,

e. determine and enter other such further orders and relief as justice may require.

Dated: August 29, 2016

Respectfully submitted,

Michael G. McGee, *Pro Se*
1108 Hunter Drive
El Paso, TX 79915-1644
(915) 407-0882
e-mail: princemike471@yahoo.com

Certificate of Service

I hereby certify that a true, complete, and correct copy of the foregoing was served by the method, to the following parties, and by an adult that is not a party in the suit, as indicated:

By First-Class Mail to:
Ronald E. Ingalls, Trustee
P.O. Box 2867
Fredericksburg, TX 78624-2867

United States Trustee – EP 12
U.S. Trustee's Office
615 E. Houston, Suite 533
P.O. Box 1539
San Antonio, TX 78295-1539

By Certified, First-Class Mail to:
Mr. Raymond J. Quinlan, Chief Executive Officer
Sallie Mae
300 Continent Drive
Newark, DE 19713

Mr. Thomas P. Skelly, Chief Financial Officer
U.S. Department of Education
P.O. Box 105028
Atlanta, GA 30348-5028

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Boston, MA 02116

Mr. James L. Preston, President and Chief Executive Officer
National Collegiate Trust
The Prudential Tower
800 Boylston Street, 34th Floor
Boston, MA 02199

This document is executed and filed with the court this the 29th day of August, 2016.

Respectfully submitted,

Michael G. McGee

Michael G. McGee, Debtor

Adversary Proceeding Cover Sheet
Attachment Page

Defendants:

Mr. Raymond J. Quinlan, Chief Executive Officer
Sallie Mae
300 Continent Drive
Newark, DE 19713

Mr. Thomas P. Skelly, Chief Financial Officer
U.S. Department of Education
P.O. Box 105028
Atlanta, GA 30348-5028

Arne Duncan, Secretary
U.S. Department of Education
400 Maryland. Avenue, S. W.
Washington, DC 2020

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800 Boylston Street, 34th Floor
Boston, MA 02199

EXHIBIT A

Order of Deferred Adjudication

CASE NO. 20130D04851 COUNT I OF I
INCIDENT NO./TRN: 9053080953

THE STATE OF TEXAS	§	IN THE 171ST DISTRICT COURT
	§	
V.	§	
	§	
MICHAEL MCGEE	§	EL PASO, COUNTY, TEXAS
	§	
STATE ID NO.: TX-50361232	§	

ORDER OF DEFERRED ADJUDICATION

Judge Presiding:	HON. Bonnie Rangel	Date Order Entered:	07/31/2014
Attorney for State:	INGRID ROJAS-KINNE	Attorney for Defendant:	LOUIS E LOPEZ

Offense:
SEXUAL ASSLT CHILD

Charging Instrument: INDICTMENT	Statute for Offense: 22.011(A)(2) PC	
Date of Offense: 09/18/2013		
Degree of Offense: 2ND DEGREE FELONY	Plea to Offense: GUILTY	Findings on Deadly Weapon: N/A

Terms of Plea Bargain:
STATE'S RECOMMENDATION

Plea to 1st Enhancement Paragraph:	N/A	Plea to 2nd Enhancement/Habitual Paragraph:	N/A
Findings on 1st Enhancement Paragraph:	N/A	Findings on 2nd Enhancement/Habitual Paragraph:	N/A

ADJUDICATION OF GUILT DEFERRED;
DEFENDANT PLACED ON COMMUNITY SUPERVISION.

PERIOD OF COMMUNITY SUPERVISION:
TEN (10) YEARS

Fine:	Court Costs:	Restitution:	Restitution Payable to:
$4,000.00 ($2,000.00 PROBATED)	$324.00	$ N/A	[ ] VICTIM (see below) [ ] AGENCY/AGENT (see below)

Sex Offender Registration Requirements DO NOT APPLY **to the Defendant.** TEX. CODE CRIM. PROC. chapter 62

The age of the victim at the time of the offense was N/A

Time Credited:	N/A DAYS NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in 171st District Court in the El Paso County, Texas. The State appeared by her District Attorney as named above.

Counsel / Waiver of Counsel (select one)

[X] Defendant appeared in person with Counsel.

[ ] Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

Both parties announced ready for trial. Defendant waived the right of trial by jury and entered a plea as indicated above. The Court admonished the Defendant as required by law. It appeared to the Court that Defendant was mentally competent to stand trial, made the plea freely and voluntarily, and was aware of the consequences of this plea. The Court received the plea and entered it of record. Having heard the evidence submitted, the Court FINDS such evidence substantiates Defendant's guilt. The Court FINDS that, in this cause, it is in the best interest of society and Defendant to defer proceedings without entering an adjudication of guilt and to place Defendant on community supervision.

The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS that Defendant is given credit noted above for the time spent incarcerated. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

The Court ORDERS that no judgment shall be entered at this time. The Court further ORDERS that Defendant be placed on community supervision for the adjudged period so long as Defendant abides by and does not violate the terms and conditions of community supervision. See TEX. CODE CRIM. PROC. art. 42.12 § 5(a).

Furthermore, the following special findings or orders apply:

Signed and entered on 08 / 6 / 2014

X ______________________________
Bonnie Rangel
JUDGE PRESIDING

X ______________________________
STATE ATTORNEY

Clerk: Guadalupe Escalante

Right Thumbprint

8/5/2014

EXHIBIT B

Affidavit of Susana McCann

Statement of Affidavit

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared Susana McCann who after being by me duly sworn upon her oath to tell the truth, deposed and who appeared capable and able to execute this document, said:

1. "My name is Susana McCann. My name at birth was Susana Habban. I am also known as Susana Esquivel and Susana Esquivel McCann. I am over the age of 18 years old and am of sound mind, capable and fully competent to make this sworn statement."

2. "I have personal knowledge of the facts in this statement and they are all true and correct. If called as a witness, I could and would competently testify thereto."

3. "I understand that if I make any misrepresentations in this statement, I may be held criminally responsible. I make this statement under my own free will and initiative, without undue influence, and without coercion from anyone. I have had the opportunity to talk with an attorney regarding the contents and implications of this statement. I have not been compensated in any way to sign or make this statement."

4. "My date of birth is December 10, 1971. My current mailing address and my mother's residential address is 7955 San Paulo Drive, El Paso, Texas 79915. My daughter, Shaima Azaby, currently resides at the same address."

5. "I submit that all facts in this document regarding Michael Gus McGee, born April 21, 1971, hereinafter this statement that is referred to as

'Mr. McGee.' He is currently accused of sexual assault towards Shaima Ebrahim Easa Azaby, born December 20, 1996, who hereinafter this document that is referred to as 'my daughter.'"

6. "I have reviewed a two-page Supplemental Report – Affidavit Supplement, a Complaint Affidavit by Detective Michael Snow sworn before the El Paso Municipal Court #1 on September 9, 2013 regarding the allegations that Mr. McGee had forced sexual contact with my daughter. I remember the statements my daughter made to police regarding the allegations of Mr. McGee. I also recall the verbal and written statements I made with the El Paso police and Detective Snow regarding the alleged sexual relationship and interest Mr. McGee had with my daughter, but I want to tell the truth by clarifying the details and to retract the inaccurate statements I provided to law enforcement."

7. "My daughter and I met Mr. McGee with his daughter sometime in January 2013. My daughter became friends with Mr. McGee's daughter at Bel Air High School. Mr. McGee's daughter had sleep overs at my mother's residence through May 2013. My daughter did not ever sleep over the residence of Mr. McGee, and she was not ever left unsupervised or unaccompanied with any adult men at any time."

8. "My daughter and I visited Mr. McGee's residence at 1121 Hunter Drive, El Paso, Texas 79915 together on more than several occasions from January 2013. I had helped clean and had access to Mr. McGee's home about twice a month from April 2013 through June 2013 while he was working at University Behavioral Health of El Paso (UBH). It was in early April 2013 that I took blank work/school excuse forms of Mr. McGee's work and other papers from his computer desk at home but without his consent or knowledge."

9. "I met Rosa Coleman, born March 10, 1972, by telephone sometime in early May 2013 and when she came to my residence on June 26, 2013 and July 2, 2013. She is the mother of Mr. McGee's daughter. We talked by

telephone on many occasions. I was aware that she lives in San Diego, California, but Rosa Coleman drove to El Paso, Texas and paid me seven thousand dollars in exchange to make false allegations against Mr. McGee having a sexual interest and relationship with my daughter. I also was present when Rosa Coleman handed money to Marisa Robles Ramos to make up a story as well, but I did not count the money that was exchanged and did not stay to hear the details of their agreement with each other. The reason Marisa Robles Ramos accepted Rosa Coleman's bride of money in exchange of making up an untrue story against Mr. McGee was based on her fear of being deported to Mexico, because Marisa Robles Ramos learned that Mr. McGee had just filed for divorce on July 11, 2013 and then would not be eligible to stay in the United States as a permanent resident."

10. "I agreed to accept Rosa Coleman's money in exchange to press criminal charges against Mr. McGee with the police, by claiming that I believed he had an intimate interest, sexual relationship and contact with my daughter. It was my job to convince my daughter to lie and make up a story that Mr. McGee had a sexual interest in her and forced my daughter to have sex with him, as a part of my agreement with Rosa Coleman. The goal of Rosa Coleman was to take away primary custody and conservatorship of their daughter from Mr. McGee and to 'get him back and ruin him,' because he had taken complete custody and care of their daughter in a custody dispute when she was in fourth grade."

11. "I remember Rosa Coleman recorded me on her cellular in order to falsely implicate and identify Mr. McGee in having a sexual relationship and interest with my daughter. The recording was made after Rosa Coleman paid me a separate two hundred dollars besides the other money she gave me prior to being recorded and we agreed to what I would say. The details and events in that recording are made up and are completely untrue."

12. "I used the cellular telephone of Mr. McGee to text and call friends and relatives. I used his cellular to send a number of text messages and call my daughter on July 10, 2013 and July 11, 2013. I remember these particular

dates, because the police came to my mother's residence on July 11, 2013 to take my daughter to the juvenile detention center."

13. "I handed a post it note dated July 28, 2013 to Mr. McGee. The note's purpose was to share I decided to withdraw false statements I made to police regarding the accusations I made regarding Mr. McGee's sexual relationship, contact and sexual interest with my daughter, because it was not a fact."

14. "By this mention, I am withdrawing and fully retract all of my verbal and signed statements made to El Paso police officers and detectives from June 2013 through September 2013 regarding a sexual relationship and inappropriate, sexual contact by Mr. McGee towards my daughter. The statements I made to law enforcement personnel regarding the allegations by Mr. McGee with or to my daughter are completely inaccurate and did not happen."

15. "I have confirmed with my daughter that sexual contact by Mr. McGee did not occur on May 29, 2013 or any other date. I am aware that my daughter went to school, went home to my mother's home after school, then stayed home the night of May 29, 2013, just like many other nights. I became aware that my daughter ran away from El Paso, Texas on May 29, 2013 at a very late hour. It is my understanding Mr. McGee was at work the night of May 29, 2013. I verified and confirmed with my daughter that she did not see or talk with Mr. McGee before or during her run away."

16. "I apologize that I charged the Visa debit card of Mr. McGee without his consent. I took the card from his car on June 8, 2013, but he did not know I had used the card until a later date. I charged and used his card to buy clothes, gas, and fast food. I became aware that Mr. McGee had made a police report about the stolen card. I made a statement with police that Mr. McGee allowed me to use his card, but this was an inaccurate statement."

17. "I remember the residence of Mr. McGee was burglarized on July 6, 2013.. The friends of Mr. McGee's daughter and I broke into the back sliding glass door to steel a variety of things from his residence. I stole Mr. McGee's lab top, blank stationery and papers in order to use later, blank forms and papers from his work, and school and office supplies like envelopes. The friends took clothing, jewelry, flat screen television, and dvd movies from Mr. McGee's home, and we split the money among us. I later told Mr. McGee that Juan Tinajera, Adriana Meza, and another teenage boy had burglarized his residence. I was later informed that Mr. McGee made a police report regarding the burglary."

18. "My daughter was never signed out to be discharged from any emergency hospital or health clinic at any time by Mr. McGee. He did not ever impersonate being a relative of ours in order to have my daughter released to him. I never observed and was never informed by anyone that Mr. McGee gave my daughter medications or pills of any kind. My daughter verified with me that Mr. McGee did not provide her any type of pills at any time. I submit that my daughter was signed out and discharged from all hospitals and emergency visits by me or my parents."

19. "My daughter was never signed out to be released from school at any time by Mr. McGee. He did not ever impersonate being a relative of ours in order to have my daughter signed out from school. The only persons authorized to have our daughter released from school were those persons listed on my daughter's emergency card maintained by the school. The attendance office would always verify identification then match that named person authorized on the emergency card prior to releasing any student. Mr. McGee was not ever listed on my daughter's release card. I verify that Mr. McGee did not complete, sign, or give me or my daughter a note from University Behavioral Health (UBH) of El Paso to be excused from school at any time. I asked a friend not known to Mr. McGee, and without his knowledge, to write that my daughter was at an appointment at UBH in order to excuse my daughter's absence from Chapin High School in April 2013."

20. "My husband and I signed a letter of agreement with an adult male from craigslist to make monthly payments towards the use of a black car. Mr. McGee did not loan or give me money towards this arrangement, and he did not buy or give my daughter a car, clothing, or gifts. I confirm that Mr. McGee did not buy my daughter flowers, and despite my plan to have my daughter get married to Mr. McGee, he refused. I drew a heart with my initials 'SM' on an old floral arrangement card I had received from someone else. I showed the card to police in order to falsely accuse Mr. McGee of having a sexual interest and relationship with my daughter."

21. "I prepared and mailed letters to my daughter while she was incarcerated in El Paso Juvenile Detention from July 11, 2013 to August 2, 2013. I mailed three unsigned letters dated July 15, 2013, July 18, 2013, and July 27, 2013 to my daughter while she was in the juvenile detention. The letters were not typed or mailed by Mr. McGee. I asked a friend of mine not known to Mr. McGee to address the envelopes to my daughter and to have them be from 'Concepcion Sonata.' I used the blank sheets of stationary, envelopes, and lab top I had taken from the house of Mr. McGee to type and send the letters to my daughter. My intention was to make it appear as if Mr. McGee was interested in her and that those were love letters to my daughter."

22. "My daughter adamantly confirmed with me even as recently as yesterday that she was not ever intimate with Mr. McGee, that he did not ever touch her in a sexual manner, and that he did not have sexual contact with her at any time. I, therefore, do not believe my daughter was a victim of sexual assault by Mr. McGee. I recall my daughter getting so angry at me for falsely accusing her of having a sexual relationship with Mr. McGee that she hit and bit me on July 11, 2013 and was arrested for family violence because of her conduct towards me."

23. "It was July 11, 2013 that my daughter and I got into a verbal argument and physical altercation due to my demand that she falsely accuse Mr. McGee of sexual misconduct. My daughter firmly denied that she had sexual contact or a sexual relationship with Mr. McGee when the officer first

arrived in to our residence. Just before the police showed to my mother's house, I warned and threatened my daughter to lie that she was forced to have sex by Mr. McGee or else I would demand that she be locked up in an isolation jail cell at the juvenile center, that I demand the judge at juvenile to prolong her time in jail, then I would make her life impossible after her release. I was able to pressure my daughter to lie that Mr. McGee had sexual contact with the police. I threatened my daughter to make up a story with the police, to say Mr. McGee had a sexual interest in her and forced her to be intimate with him."

24. "I submit that Rosa Coleman paid me a lot of money on the dates she saw me at my mother's house and other locations. She paid me money in exchange to file false statements and made up stories with the police in order to get Mr. McGee arrested and to lose custody of his daughter. Rosa Coleman left it up to me to come up with the details of what I would tell the police and how I would force my daughter to lie about Mr. McGee having a sexual relationship and inappropriate, sexual contact with her."

25. "I take full responsibility for my actions that I have herein described, but that I now deeply regret. I apologize for the lies, made up stories, and false statements I and my daughter have made to police regarding Mr. McGee, but I allowed Rosa Coleman to buy and use me. The three letters I had mailed to my daughter while she was in the juvenile center, my part in the burglary of the Mr. McGee's residence, my false statements made to law enforcement, the floral card I showed police, and my part in coercing my daughter to lie that Mr. McGee had a sexual relationship and forced sexual contact was to fulfill my end of the agreement made with Rosa Coleman."

26. "I know my actions by lying as herein explained was not right. I am ready to testify in open court regarding to the truthfulness of the contents within this statement and am prepared to be accountable for my actions. I, therefore, withdraw my request to press criminal charges against Mr. McGee. I ask that Mr. McGee be cleared of all allegations regarding my daughter's sexual assault and that the charges against him be dismissed."

27. "I verify that I have read and reviewed this statement consisting of twenty seven points and eight pages. I declare and swear that the foregoing affidavit is true and correct, under the penalty of perjury in and for the State of Texas."

And further, affiant saith not.

In witness whereof, this 26TH day of September, 2013.

Susana McCann

ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME this 26TH day of September, 2013, before me, SAUL PINEDA, a Texas Notary Public, personally appeared SUSANA McCANN, and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(seal)

SAUL PINEDA
MY COMMISSION EXPIRES
January 14, 2014

Notary Public – Signature
My commission expires: 01-14-2014

EXHIBIT C

Affidavit of Shaima Ebrahim Easa Azaby

Affidavit

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned Notary Public, on this day Shaima Ebrahim Easa Azaby, who being by me duly sworn upon her oath to tell the truth, deposed and said:

1. *"I verify my complete, legal name is Shaima Ebrahim Easa Azaby. I am also known as Shaima Azaby. On this date, I am over the age of 18 years old and am of sound mind, capable and fully competent to make this sworn statement."*

2. *"I verify I have personal knowledge of the facts written in this statement and they are all true and correct. I understand that if I make any misrepresentations in this statement, I may be held criminally responsible. This affidavit is true and correct to the best of my knowledge."*

3. *"I verify I make this statement voluntarily, under my own free will, without undue influence or duress. I have not been given or promised anything in return to sign or make this statement."*

4. *"I verify that I have read and reviewed the criminal case history regarding Texas Case No. 20130D04851 on the internet, the two-page criminal affidavit signed September 5, 2013, and criminal indictment filed September 25, 2013 regarding the allegations, charges, and terms of community supervision against Michael McGee, born April 21, 1971, in Texas Cause No. 20130D04851."*

5. *"I verify that all references to 'defendant' hereinafter in this affidavit is identified as Michael Gus McGee, born April 21, 1971, in The State of Texas v. Michael McGee, Case No. 20130D04851 that was before the 171st District Court of El Paso County, Texas."*

6. "I verify my date of birth is December 20, 1996. I currently reside at my grandmother's residence located at 7955 San Paulo Drive, El Paso, Texas 79915. I am unemployed at this time. I earned my General Equivalency Diploma."

7. "I verify my mother's name was Susana Habban at birth. She had different names due to marriage and divorce, including but not limited to: Susana Esquivel, Susana Esquivel McCann, and Susana McCann. She was born on December 10, 1971 and died on October 8, 2013."

8. "I verify that I became friends with the defendant's daughter sometime in January 2013. My mother and I, together, visited the defendant's home located at 1121 Hunter Drive, El Paso, Texas 79915 sometime in March 2013 and May 2013. I was aware that my mother had cleaned the defendant's house from April 2013 to June 2013 while he was at work, but I do not know the dates or how many times."

9. "I verify that on or about July 11, 2013, my mother coerced me to accuse the defendant of having a sexual relationship and sexual contact with me to the police. I was extremely afraid of what my mother would do to me if I did not do what she demanded from me. The allegations and events that the defendant had a ~~sexual relationship and sexual~~, ~~inappropriate contact with and towards me were~~ and are completely untrue."

10. "I verify it is my request to retract all of my statements made to law enforcement from July 2013 through September 2013 regarding any sexual and inappropriate contact by the defendant to me. My statements made to law enforcement personnel regarding the allegations of sexual assault and any sexual contact by the defendant are not true and did not happen."

11. "I verify I felt forced and was compelled by my mother to make false allegations against the defendant regarding the alleged sexual contact. My mother forced me to lie that the defendant had sexual contact with me after his daughter's mother, Rosa Coleman, met with her on June 26, 2013 and July 2, 2013. I was threatened that I would be arrested and locked up at the El Paso County Juvenile Probation Detention Center and confined by myself to a small, isolation jail cell if

I did not make a statement that defendant had a sexual relationship and sexual contact with me."

12. *"I verify I did not give law enforcement accurate information regarding the details regarding the events and circumstances of the alleged sexual contact by the defendant. The report I made to law enforcement indicated that sexual contact occurred at 1108 Hunter Drive, but this was and is not true. I was never alone with the defendant and his daughter at the 1108 Hunter Drive address. I was aware that the defendant was living at 1121 Hunter Drive address, because this is where my friend was living with the defendant. In addition, I was never left alone with the defendant at any time."*

13. *"I verify that on May 29, 2014 I sent a number of text messages from my cellular to the defendant's cellular, informing him 'I'm So Sorry I Did All This To You. My Mom Passed Away. She Was The One Forcing Me To Say All This. My Mom And The Investigator Forced Me To Say We Were Intimate. Now That My Mom is Gone I Want To Say The Truth Since She's Not Here To Stop Me.' The text messages were and are true and correct."*

14. *"I verify that on May 29, 2014 I sent a message from my Facebook account to the account of the defendant, indicating 'Michael I'm Very Sorry For Everything. Alot Has Happened and Did Alot Of Things I Never Wanted To Do But Was Forced Too.' The message was to tell the defendant that I was forced by my mother to lie about the allegations of the sexual contact with me."*

15. *"I verify that my statements made to law enforcement about the alleged sexual contact were and is untrue. It is not true that the defendant had inappropriate, sexual contact with me on May 29, 2013 or at any other time. On May 29, 2013, I went to school, then went home to my grandmother's home after school, and then stayed home that evening and night. I did not even talk with the defendant on this date."*

16. *"I verify that I do not recall the exact time but during the very late night of May 29, 2013 I ran away from my grandmother's house. I ran away while my sister and grandmother fell asleep. I remained away until on or about June 10,*

2013. I did not stay in El Paso, Texas. I did not have contact with the defendant, and I did not see him during this time at all."

17. *"I verify that I did not report to police or anyone that the defendant was sexually inappropriate or had sexual contact with me before my run away or during my absence. I had more than enough time and opportunity to make a report to law enforcement if I had been a victim of sexual assault, but I did not make a police report because the defendant did not ever touch me, was not ever inappropriate with me, and did not ever have sexual contact with me in any way or at any time."*

18. *"I verify that I became aware that on July 6, 2013 the residence of the defendant was burglarized and many items were stolen, including but not limited to a lab top, stationery, papers, blank forms and papers from his work, envelopes, jewelry, and money."*

19. *"I verify that I was never signed out to be released from school at any time by the defendant. I was never informed by anyone that he pretended to be my uncle or relative in order to have me checked out from school. It is my understanding that the defendant was never placed on my emergency card by my mother or grandmother as a person authorized to sign me out from school. The defendant did not ever give me a note from University Behavioral Health of El Paso (UBH) to be excused from school. It was my mother that delivered a note from UBH to excuse me from school sometime in April 2013."*

20. *"I verify that I was never signed out to be released from a clinic or emergency room by the defendant. I was never informed and am unaware that the defendant pretended to be my uncle or relative. I was never signed out by the defendant from any health clinic, doctor's office, or emergency hospital in order to be released. It was my grandparents or mother that signed me out from health clinics when I had appointments or to discharge me from hospitals to their care. The defendant did not ever give or buy me any medications or pills of any kind, at any time."*

21. "I verify that my mother with her husband signed a letter of agreement with a guy from craigslist to make monthly payments towards the use of a black car. I did not see and I am not aware of the defendant giving or loaning my mother any money to get a black car. I did not ever receive money, clothing, or gifts from the defendant, and the defendant did not ever loan or buy me a car."

22. "I verify that I did not ever receive flowers from the defendant. I want to clarify that the initials 'SM' did not mean 'Shaima' 'Michael.' It was my mother that got flowers, she wrote the initials, and she put a heart around the initials on a floral arrangement card. My mother often used the initials 'SM' for her name, Susana McCann."

23. "I verify that I was detained in El Paso County JPD from July 11, 2013 to August 2, 2013 and other dates. It is my understanding that my mother mailed at least three typed letters to me while I was detained. My mother showed me a copy of three letters that were dated July 15, 2013, July 18, 2013, and July 27, 2013, sometime in August 2013, but were not signed. The three letters had the name 'Concepcion' or 'Concepcion Sonata' typed on the letters. I do not believe the letters were written or mailed by the defendant, because the letters do not sound or appear like they came from him. My mother explained to me that she was paid to type and mail made up letters to me while I was in juvenile detention."

24. "I verify that the defendant did not ever touch me or have sexual contact with me in any way or at any time. He did not ever insert any part of his body into mine and did not touch my private parts with any part of his body. The defendant did not have an inappropriate, sexual relationship with me at all. In the interest of justice, the defendant should be cleared of the false accusations and charge that was filed against him in the indictment from Texas Cause No. 20130D04851."

25. "I verify that the defendant or his court appointed attorney did not ever contact me to verify the allegations in the Complaint Affidavit prepared September 5, 2013 (sworn on September 9, 2013) or Indictment filed September 25, 2013. The defendant also has not contacted me in any way from about August 20, 2013 to now. If the defendant's attorney or prosecutor would have contacted me in order to verify the allegations of sexual contact, I would have signed a statement that the *details and circumstances described in the complaint affidavit and indictment are not true and the defendant is not guilty of the alleged charge."*

26. *"I verify that it is my expressed desire that the charge of sexual assault in Case No. 20130D04851 in the matter against the defendant that was before the 171st Judicial District Court of El Paso County, Texas be dismissed. It is not right or fair to have the defendant, Michael Gus McGee, to be prosecuted for a crime he did not commit."*

27. *"I verify that I have read and reviewed this statement consisting of six pages. I declare and swear that the foregoing affidavit is true and correct, under the penalty of perjury in and for the State of Texas."*

And further, affiant saith not.

In witness whereof, this 25 day of February, 2015.

[signature]
Shaima Ebrahim Easa Azaby

ACKNOWLEDGMENT

SUBSCRIBED AND SWORN BEFORE ME this 25 day of February, 2015, I verify that Shaima Ebrahim Easa Azaby, personally appeared and proven to me through her Texas Department of Public Safety Identification, I.D. No. 37167965, that currently expires on 12-20-2019, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Personalized Seal)

BRENDA GONZALEZ
Notary Public, State of Texas
My Commission Expires
August 26, 2016

[signature]
Notary Public – Signature

Brenda Gonzalez
Notary Public – Printed Name

My commission expires: August 26 2016

EXHIBIT D

Minutes and Order – Family Support of May 28, 2015

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

F I L E D
Clerk of the Superior Court
MAY 28 2015
By: ____________ Deputy
[5]

DATE: 05/28/15	TIME: 01:45PM
HON: ADAM WERTHEIMER	DEPT: 42
CLERK: STEVE JOHNSON	SDDCSS NO. SC NO. 694880322 / D442944
REPORTER: LYNDA GOODHUE	CSR NO. 9281
PETITIONER: MCGEE, MICHAEL	
RESPONDENT: COLEMAN, ROSA I. Spanish I/R	

☐ JUDGMENT ☐ DEFAULT
☒ ORDER ☐ STIPULATED
☐ NON PATERNITY
☐ TEMPORARY ORDER WITHOUT PREJUDICE
☐ ORDER WITHOUT PREJUDICE UNTIL
☐ CASE DISMISSED WITHOUT PREJUDICE

SDDCSS Attorney: [illegible] DIAZ present pursuant to FC17400.
Counsel for Petitioner/Other Parent: ____________ Counsel for Respondent: ____________
Respondent present/not present
Other Party/Petitioner present/not present by phone Children: ROSA [illegible]

THE COURT FINDS THAT Respondent/Petitioner/Other Parent was served by personal service/substituted service/publication/mail and address verified. *mother owes to father child support arrears*

☐ Respondent/Petitioner admits/denies paternity. ☐ Respondent/Petitioner is the father.
☒ Arrears are principal of $ *[illegible]* for the period *3/10* through *4/15* and interest of $ *2,921.90* through *4/15*
☐ Arrears set in Arrearages Summary Sheet attached. ☐ Interest not included/waived. ☒ Arrears paid at $ *100* per month, effective *continuing*
☐ Respondent/Petitioner's gross income $ ____ Tax filing status ____ Deductions ____ Net income $ ____
☐ Other Parent gross income $ ____ Tax filing status ____ Deductions ____ Net income $ ____

THE COURT ORDERS Respondent/Petitioner/Other Parent to pay on the FIRST day of each month child support of $ *[illegible]*, effective *continuing*
Child support is allocated from youngest to oldest as (1) ____ (2) ____ (3) ____ (4) ____ (5) ____
☐ See attached Guideline Summary results. ☐ Parties are informed of guideline support of $ ____ and agree to a below/above guideline FC 4065.
☐ Timeshare percentage is ____ ☐ Spousal Support of $ ____ per month is effective ____
☐ Respondent/Petitioner/Other Parent to make ____ job contacts PER WEEK and report contacts in writing to the Court on the next Court date.
☐ Effective ____, Respondent/Petitioner/Other Parent to pay ☐ ____% of child care costs incurred ☐ $ ____ per month
Costs to be paid ☐ directly to Custodial Parent within 10 days of proof of costs ☐ to the SDU on the FIRST of each month ☐ by wage assignment.
☐ Effective ____, Respondent/Petitioner/Other Parent to pay ____% of unreimbursed health care costs incurred.
Costs to be paid ☐ directly to Custodial Parent within 10 days of proof of costs ☐ to the SDU on the FIRST of each month ☐ by wage assignment.
☐ Financial aspects of default judgment/order dated ____ set aside. ☐ The judgment/order dated ____ is set aside.
☐ Equitable offset granted for the period of ____
☐ An audit is ordered. The audit is to be served on the parties by ____. Objections to audit to be filed/served by ____
☐ Enforcement stayed until further Court order. ☐ SDDCSS to hold payments in trust until further Court order. ☐ Stay of enforcement lifted. ☐ Trust hold lifted.
☒ HEALTH INSURANCE COVERAGE – ☐ The parent ordered to pay support ☐ The parent receiving support must (1) provide and maintain health insurance coverage for the children if it is available through employment or a group plan or otherwise available at no or reasonable cost and keep the local child support agency informed of the availability of the coverage; (2) if health insurance is not available, provide coverage when it becomes available; (3) within 20 days of the local child support agency's request, complete and return a health insurance form. ☐ Health Insurance Assignment stayed.
☐ GENETIC TEST coordinated by SDDCSS. Respondent/Petitioner/mother of the child (ren) and minor child (ren) to provide genetic samples within 10 days, unless otherwise ordered.
☐ Respondent/Petitioner/Other Parent's ☐ Driver License # ____ Other License # ____ conditionally released upon compliance of all orders.
☐ CONTEMPT/PROBATION REVOCATION Respondent/Petitioner/ Other Parent ☐ advised of constitutional rights ☐ waives reading of the charging document ☐ enters a plea of NOT GUILTY ☐ Enters a time waiver ☐ is ordered to return on date and time of hearing set below.
☐ WARRANT OF ATTACHMENT – A warrant of attachment against Respondent/Petitioner/Other Parent issues with cash bail set at $ ____ day or night service, cash bail only, no 10%, no cite and release. ☐ Warrant issued and held until ____. Warrant recalled on ____
☐ Attorney ____ telephone no. ____ is appointed to represent Petitioner/Respondent/Other Parent/Minor Child.
Appointment is for ☐ Contempt ☐ Probation Violation ☐ Paternity ☐ SCRA ☐ Minor's Counsel.
☐ The court reserves jurisdiction to order reimbursement to the County of San Diego for attorney fees. ☐ Attorney's appearance waived for fee hearing.
☐ Respondent/Petitioner/Other Parent DOES/DOES NOT have the ability to repay the County for attorney fees.
☐ Attorney's fees to be paid to the County of San Diego in the amount of $ ____, payable at $ ____ per month effective ____
☒ OTHER TERMS: All payments to be made to the SDU. A wage and earnings assignment will issue. Any payments not being paid by wage and earnings assignment to be made directly to the SDU. Notwithstanding any other provisions of this judgment/order, all monies collected to be distributed in accordance with state and federal law. The payor must provide SDDCSS with date of birth, SS#, income, employer's name, employer's address, and residential address.
☒ No provision of this judgment/order shall operate to limit any right to assess and collect interest and penalties as allowed by law. Interest shall accrue on the entire principal balance owing and not on each payment as it becomes due. All liquidation payments shall be subject to modification. There shall be no limitation on collection from sources other than salary or wages without further notice as allowed by law.
☒ All orders previously made in this action shall remain in full force and effect except as specifically modified herein.
☒ Respondent/Petitioner/Other Parent must notify SDDCSS of any change in address, income or employment, within 48 hours of such change.
☒ As provided in FC 4007.5, the obligation of the person ordered to pay support shall be suspended (set to $0) for any period exceeding 90 consecutive days in which the person ordered to pay support is incarcerated or involuntarily institutionalized, unless the obligor has the means to pay support while incarcerated or involuntarily institutionalized. The suspension of the support obligation shall only apply for the period of time during which the obligor is incarcerated or involuntarily institutionalized, after which the obligation shall immediately resume in the amount otherwise specified in the child support order.
☐ CASE CONSOLIDATION Case # ____ is consolidated with case # ____, which is designated as the lead case.
☐ This matter is continued to/set for review hearing on ____ at ____ a.m./p.m. in Dept. ____ ☐ No further continuances without court approval.
☐ Petitioner/Respondent/Other Parent to file Income and Expense Declaration (JC Form #FL-150) with proof of income per local Rules including but not limited to pay stubs for the last two months, Profit/Loss statement and Schedule C if self-employed. Parties shall file evidentiary declarations re ____
☐ THIS MATTER TAKEN OFF CALENDAR ☐ FOR FURTHER ORDERS SEE ATTACHED PAGE 3
OTHER: *mother owes to father for medical arrears $17,[illegible].62 (P) plus $6,328.86 (I) through 4/15.*

SDDCSS Representative ____________ Attorney for Respondent/Petitioner ____________

IT IS SO ORDERED: Date: 05/28/15 ADAM WERTHEIMER Judge/Commissioner

SDSC D-885 (Rev. 4/11) **MINUTES AND ORDER - FAMILY SUPPORT** Page 1 of 2

Exhibit A

EXHIBIT E

Minutes and Order – Family Support of January 11, 2016

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO [ ]

DATE: 01/11/2016	TIME: 1:45 PM
HON: PENNIE K. MCLAUGHLIN	DEPT: D-43
CLERK: W. RUFFER	SDDCSS NO. 603519927 SC NO. D376077
REPORTER: CRAIG BROWN CSR NO. 7440	
PETITIONER: CHRISTINA JOSEFA MCGEE	
RESPONDENT: MICHAEL G. MCGEE	

FILED
Clerk of the Superior Court
JAN 11 2016
By: W. Ruffer, Deputy

☐ JUDGMENT ☐ DEFAULT
☒ ORDER ☐ STIPULATED
☐ NON PATERNITY
☐ TEMPORARY ORDER WITHOUT PREJUDICE
☐ ORDER WITHOUT PREJUDICE UNTIL ______
☐ CASE DISMISSED WITHOUT PREJUDICE

SDDCSS Attorney: Kevin O'Keefe present pursuant to FC17400.
Counsel for Petitioner/Other Parent: ______ Counsel for Respondent: ______
Respondent present/not present SX Phone Children: Michael 9/20/91
Other Party/Petitioner present/not present SK

THE COURT FINDS THAT Respondent/Petitioner/Other Parent was served by personal service/substituted service/publication/mail and address verified.
☐ Respondent/Petitioner admits/denies paternity. ☐ Respondent/Petitioner is the father.
☒ Arrears are principal of $ ______ for the period ______ through ______ and interest of $ ______ through ______
☐ Arrears set in Arrearages Summary Sheet attached. ☐ Interest not included/waived. ☒ Arrears paid at $ 100.00 per month, effective [illegible]
☐ Respondent/Petitioner's gross income $ ______ Tax filing status ______ Deductions ______ Net income $ ______
☐ Other Parent gross income $ ______ Tax filing status ______ Deductions ______ Net income $ ______

THE COURT ORDERS Respondent/ Petitioner/ /Other Parent to pay on the FIRST day of each month child support of $ ______, effective ______
Child support is allocated from youngest to oldest as (1) ______ (2) ______ (3) ______ (4) ______ (5) ______
☐ See attached Guideline Summary results. ☐ Parties are informed of guideline support of $ ______ and agree to a below/above guideline FC 4065.
☐ Timeshare percentage is ______ ☐ Spousal Support of $ ______ per month is effective ______
☐ Respondent/Petitioner/Other Parent to make ______ job contacts PER WEEK and report contacts in writing to the Court on the next Court date.
☐ Effective ______, Respondent/Petitioner/Other Parent to pay ☐ ______% of child care costs incurred ☐ $ ______ per month
Costs to be paid ☐ directly to Custodial Parent within 10 days of proof of costs ☐ to the SDU on the FIRST of each month ☐ by wage assignment.
☐ Effective ______, Respondent/Petitioner/Other Parent to pay ______% of unreimbursed health care costs incurred.
Costs to be paid ☐ directly to Custodial Parent within 10 days of proof of costs ☐ to the SDU on the FIRST of each month ☐ by wage assignment.
☐ Financial aspects of default judgment/order dated ______ set aside. ☐ The judgment/order dated ______ is set aside.
☐ Equitable offset granted for the period of ______
☐ An audit is ordered. The audit is to be served on the parties by ______. Objections to audit to be filed/served by ______
☐ Enforcement stayed until further Court order. ☐ SDDCSS to hold payments in trust until further Court order. ☐ Stay of enforcement lifted. ☐ Trust hold lifted.
☒ HEALTH INSURANCE COVERAGE – ☐ The parent ordered to pay support ☐ The parent receiving support must (1) provide and maintain health insurance coverage for the children if it is available through employment or a group plan or otherwise available at no or reasonable cost and keep the local child support agency informed of the availability of the coverage; (2) if health insurance is not available, provide coverage when it becomes available; (3) within 20 days of the local child support agency's request, complete and return a health insurance form. ☐ Health Insurance Assignment stayed.
☐ GENETIC TEST coordinated by SDDCSS. Respondent/Petitioner/mother of the child (ren) and minor child (ren) to provide genetic samples within 10 days, unless otherwise ordered.
☐ Respondent/Petitioner/Other Parent's ☐ Driver License # ______ Other License # ______ conditionally released upon compliance of all orders.
☐ CONTEMPT/PROBATION REVOCATION Respondent/Petitioner/ Other Parent ☐ advised of constitutional rights ☐ waives reading of the charging document ☐ enters a plea of NOT GUILTY ☐ Enters a time waiver ☐ is ordered to return on date and time of hearing set below.
☐ WARRANT OF ATTACHMENT – A warrant of attachment against Respondent/Petitioner/Other Parent issues with cash bail set at $ ______ day or night service, cash bail only, no 10%, no cite and release. ☐ Warrant issued and held until ______ Warrant recalled on ______
☐ Attorney ______ telephone no. ______ is appointed to represent Petitioner/Respondent/Other Parent/Minor Child.
Appointment is for ☐ Contempt ☐ Probation Violation ☐ Paternity ☐ SCRA ☐ Minor's Counsel.
☐ The court reserves jurisdiction to order reimbursement to the County of San Diego for attorney fees. ☐ Attorney's appearance waived for fee hearing.
☐ Respondent/Petitioner/Other Parent DOES/DOES NOT have the ability to repay the County for attorney fees.
☐ Attorney's fees to be paid to the County of San Diego in the amount of $ ______, payable at $ ______ per month effective ______
☒ OTHER TERMS All payments to be made to the SDU. A wage and earnings assignment will issue. Any payments not being paid by wage and earnings assignment to be made directly to the SDU. Notwithstanding any other provisions of this judgment/order, all monies collected to be distributed in accordance with state and federal law. The payor must provide SDDCSS with date of birth, SS#, income, employer's name, employer's address, and residential address.
☒ No provision of this judgment/order shall operate to limit any right to assess and collect interest and penalties as allowed by law. Interest shall accrue on the entire principal balance owing and not on each payment as it becomes due. All liquidation payments shall be subject to modification. There shall be no limitation on collection from sources other than salary or wages without further notice as allowed by law.
☒ All orders previously made in this action shall remain in full force and effect except as specifically modified herein.
☒ Respondent/Petitioner/Other Parent must notify SDDCSS of any change in address, income or employment, within 48 hours of such change.
☒ The obligation of the person ordered to pay support shall be suspended (set to $0) for any period exceeding 90 consecutive days in which the person ordered to pay support is incarcerated or involuntarily institutionalized, unless the obligor has the means to pay support while incarcerated or involuntarily institutionalized. The suspension of the support obligation shall only apply for the period of time during which the obligor is incarcerated or involuntarily institutionalized, after which the obligation shall immediately resume in the amount otherwise specified in the child support order. Both parties may appear by phone
☐ CASE CONSOLIDATION Case # ______ is consolidated with case # ______, which is designated as the lead case.
☒ This matter is continued to/set for review hearing on 5/4/16 at 12:45 a.m. /p.m. in Dept. 43. ☐ No further continuances without court approval
☐ Petitioner/Respondent/Other Parent to file Income and Expense Declaration (JC Form #FL-150) with proof of income per local Rules including but not limited to pay stubs for the last two months, Profit/Loss statement and Schedule C if self-employed. Parties shall file evidentiary declarations re ______
☐ The court retains jurisdiction to make order retroactive. ☐ All issues reserved.
☐ THIS MATTER TAKEN OFF CALENDAR. ☐ THE STIPULATION AND ORDER/JUDGMENT dated ______ IS ACCEPTED AND MADE AN ORDER/JUDGMENT OF THE COURT. ☐ FOR FURTHER ORDERS SEE ATTACHED PAGE 3.
OTHER: the Court is mindful that respondent receives $100 a month for his other case which can be used toward arrears in this case. The matter is continued for an update on Respondent's social security update.

IT IS SO ORDERED: Date: 01/11/2016 Pennie K. McLaughlin
PENNIE K. MCLAUGHLIN Judge/Commissioner